

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims supersedes any previous listing. Favorable reexamination and reconsideration are respectfully requested in view of the preceding amendments and the following remarks.

Claim Amendments/Status

Claims 7 and 13 have been amended to improve syntax and uniformity of claim language and thus clarify the subject matter for which protection is sought. Claims 7-15 remain pending in this application.

Interview Summary

In a telephonic conference with Examiner Khiem D Nguyen on the morning of April 8, 2009, it was indicated that upon reconsideration, the finality of the instant rejection and the Fang reference would be withdrawn. It was however, requested that clarifying amendments such as those indicated above would be necessary in order to render the claims clear and distinct. The applicants' representative agreed to these requirements.

The examiner indicated a follow up search would be necessary.

Claim Objections

The objections raised in paragraph #2 of this Office Action are submitted as being overcome by the amendments implemented *supra*.

Rejections under 35 USC § § 102, 103

The anticipation rejection of claims 7, 10 and 14 under 35 USC § 102(e) in light of the disclosure of Fang (US 6,667,511); and the rejection of claims 11 and 12 under 35 USC § 103(a) as being unpatentable over Fang in view of Sheng et al. (US 5,981,404); are both respectfully mooted by the Examiner's withdrawal of the Fang reference and finality of the rejection based on this reference.

Additionally, in connection with the claimed step of removing the floating gate layer and the tunnel oxide formed on the peripheral region, it is respectfully submitted that the rejection cites the select gate region 313 as being the claimed peripheral region. However, at column 10, lines 6-9 of Fang discloses that select gate region 313 is located in the core region

305 as different from one of the low and high voltage periphery areas 314 and 315. Further, at column 9, lines 43-45 the Fang reference discloses that:

The etching of the poly1 layer 312 completely removes the polysilicon layer 312 and the tunnel oxide 308 in the select gate transistor areas 313 **but not in the low voltage and high voltage periphery areas 314 and 315**, respectively. (Emphasis added)

Thus, as the claims clearly call for the removal of the floating gate layer and the tunnel oxide in a peripheral region it would appear that the Fang reference actually discloses the reverse of that this is called for in the claims.

Conclusion

It is respectfully submitted that the claims as they have been amended are allowable over the art which has been applied in this Office Action. Favorable reconsideration and allowance of this application are courteously solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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